



CITY OF WESTMINSTER

MINUTES

Licensing Sub-Committee (1)

MINUTES OF PROCEEDINGS

Minutes of a meeting of the **Licensing Sub-Committee (1)** Committee held on **Thursday 30th October, 2014**, Rooms 5, 6 & 7 - 17th Floor, City Hall.

Members Present: Councillors Tim Mitchell (Chairman), Louise Hyams and Rita Begum

1 MEMBERSHIP

There were no changes to the Membership.

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

3 BLACK'S, BASEMENT TO FIRST FLOOR, 67 DEAN STREET, W1

LICENSING SUB-COMMITTEE No. 1

Thursday 30 October 2014

Membership: Councillor Tim Mitchell (Chairman), Councillor Louise Hyams and Councillor Rita Begum

Legal Adviser: Barry Panto
Policy Adviser: Chris Wroe
Committee Officer: Jonathan Deacon

Relevant Representations: Environmental Health, Metropolitan Police, Councillor Glenys Roberts (Ward Councillor), The Soho Society and 3 x local residents.

Present: Mr Alun Thomas (Solicitor, representing the Applicant), Ms Caroline Towing (Director, Black's), Mr David Seccombe (Designated Premises Supervisor, Black's), Mr Tony Shrimplin (local resident and curator, Museum of Soho in support of application), Mr Anil Drayan (Environmental Health), PC Jim Sollars (Metropolitan Police), Councillor Glenys Roberts (Councillor for West End Ward), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project – on behalf of Mr David Bieda), and Mr David Bieda (local resident).

**Black's, Basement to First Floor, 67 Dean Street, W1
14/07347/LIPV**

1. Alterations to layout of premises

To add a bar counter to the ground floor as shown on the plan attached at Appendix A3.

Amendments to application advised at hearing:

None.

Decision (including reasons if different from those set out in report):

Granted, subject to conditions as set out below. Members of the Sub-Committee noted that there was a very narrow focus within the application. The first aspect of the application was to change the layout of the ground floor to add a bar servery, enlarging the kitchen. This proposal had not attracted significant opposition. PC Sollars stated during the hearing that he did have concerns that a bar was being placed where a bar did not currently exist and that it would be better to keep the bar in the basement where it was less conspicuous.

The second aspect of the application was to permit guests of members to purchase their own alcohol. The basic principle of this had not been objected to by any of the parties who had made representations. As PC Sollars had stated it was very difficult for inspectors to assess who was buying drinks on the premises. Mr Bieda and Mr Brown who was representing him had asked the Committee to specifically look at the number of guests per member.

In respect of both aspects of the application, the Sub-Committee took into account in their decision to grant the application that as a result of the proposed conditions alcohol could only be sold for consumption by members of a private club and their bona fide guests. There would, as Mr Thomas stated, be no changes to the existing membership conditions on the licence. Mr Thomas had also agreed that there would be no more than four guests per member on the premises at any time save for guests of members taking a table meal or attending a pre-booked and bona fide private function or event. It had been agreed with the Police that a member would have to book the event no less than 24 hours in advance.

The Sub-Committee did consider that the additional conditions attached to the licence demonstrated that the objectors' representations had achieved the further promotion of the licensing objectives. These included that there were set capacities for the basement, first and second floors and that loudspeakers would not be located in the entrance lobby or outside the premises building. The Applicant had agreed the Police condition that a legible list of the names and addresses of members of the Club would be kept on the premises at all times together with a book legibly recording the names and dates of attendance of any

guests introduced by members which would be retained for a period of 28 days.

Councillor Roberts addressed the Sub-Committee on the use of the garden / courtyard area. She stated her concerns regarding the number of people who could potentially drink and smoke in this area which was part of the existing licence. Mr Bieda referred in his written representation to the rear yard not hitherto being used by members and guests and that the sound amplified from this area as a result of the 'funnel nature of the rear yards in Meard Street, which abut a tall building along Bouchier Street'. The Sub-Committee had also read a representation from a local resident living in Meard Street that noise particularly travelled from the garden/courtyard and had caused nuisance to her. A recording was played at the meeting although Members appreciated that it was difficult to gauge exactly how much noise was being created when it was being played through microphones at the hearing. Mr Thomas agreed a condition that in addition to the rear garden ceasing to be used after 21:00 hours, there being no more than 5 persons present there at any one time,

Members did however share the objectors' concerns that the application was not as well thought out as it should have been and had led to residents being wary of what was being proposed. Mr Drayan for Environmental Health in particular advised that he had requested that the application was withdrawn and a proper variation application submitted. Mr Bieda had also requested this in his written representation as it would in his view continue to lead to misunderstandings. It in his opinion gave the impression that the Applicant was trying to get aspects agreed surreptitiously. The objectors made the point during the hearing that the application did not fully reflect all of the changes that the Applicants had sought at the premises and that the plans should have been varied accordingly for the various floors. These included the first floor where it had been set out on the plans that the reading room would have no food and no music. Mr Thomas made the point that in his view there was no need for the plans to be amended given that food and background music, which would now be made available, were not licensable activities. Members also now entered 67 Dean Street via the front door rather than the basement. It was noted that this would not inconvenience upstairs accommodation as there were no residents currently living there.

Mr Thomas had maintained the position throughout that Environmental Health's and residents' concerns such as those relating to regulated entertainment were not relevant to what his clients had applied for. He stated at the hearing that there had been a noise complaint from Mr Bieda on 10 August which had led to a noise abatement notice being served. However, there had been no noise complaints since that date and the intention was for any music to be background music. The new owners had only been operating Black's since April 2013. There had been a significant drop in noise complaints since the new owners had taken over.

It was Mr Drayan's view that by changing the plans, how the premises operated, where the entrance was located and adding a bar, it was changing the ethos of Black's which would mean that it was best practice to add conditions which he had proposed to prevent noise nuisance from regulated entertainment. He added that the operators had not been aware of the lack of sound insulation

	<p>prior to the noise abatement notice being served. It would be Environmental Health's position that if the Applicant applied for Temporary Event Notices involving regulated entertainment they were likely to be opposed unless it could be demonstrated that the regulated entertainment would not adversely affect residents.</p> <p>Mr Brown and Mr Bieda supported the Environmental Health conditions being added to the licence, particularly in light of the noise abatement notice having been served. Councillor Roberts referred in her representation to the buildings in the locality not having built with amplified sound in mind. If music was played this had to be regulated in such a way that it did not affect local residents.</p> <p>The Chairman made the point at the hearing that whilst Members were not in a position to attach conditions that were not directly relevant to what had been applied for, it was open to the Responsible Authorities or residents to submit a review application if the licensing objectives were being undermined.</p> <p>Mr Thomas clarified at the beginning of the hearing that there had been an error in the application which had indicated that condition 13 on the existing licence should be removed. Condition 13 on the existing licence set out the restrictions on the sale and supply of alcohol (condition 22 below) and had to be retained.</p>
2.	Sale of Alcohol for consumption on and off the premises
	To permit guests of members to purchase their own alcohol.
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below (see reasons for decision in Section 1).</p>

Conditions attached to the Licence	
<u>Mandatory Conditions</u>	
1.	No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2.	No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3.	Every supply of alcohol under this licence must be made or authorised by a person who holds a personal licence.

4.
 - (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
 - (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises -
 - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to;
 - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
 - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
 - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
 - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
 - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
 - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).
5. The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.
6.
 - (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
 - (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
 - (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either -

- (a) a holographic mark, or
- (b) an ultraviolet feature.

7. The responsible person must ensure that -

- (a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures -
 - (i) beer or cider: ½ pint;
 - (ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
 - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.

A responsible person in relation to a licensed premises means the holder of the premise licence in respect of the premises, the designated premises supervisor (if any) or any individual aged 18 or over who is authorised by either the licence holder or designated premises supervisor. For premises with a club premises certificate, any member or officer of the club present on the premises in a capacity that which enables him to prevent the supply of alcohol.

8(i) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

8(ii) For the purposes of the condition set out in paragraph 8(i) above -

- (a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

Where -

- (i) P is the permitted price,
 - (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
 - (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -

- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

8(iii). Where the permitted price given by Paragraph 8(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

8(iv). (1) Sub-paragraph 8(iv)(2) below applies where the permitted price given by Paragraph 8(ii)(b) above on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

Additional Conditions

9. Alcohol may only be sold for consumption by members of a private club and their bona fide guests. No person shall be admitted to membership of the private club or be entitled to take advantage of any of the privileges of membership without an interval of at least 48 hours between their nomination or application for membership and their admission.

10. A legible list of the names and addresses of members of the Club shall be kept on the premises at all times together with a book legibly recording the names and dates of attendance of any guests introduced by members which shall be retained for a period of 28 days. Both the list and the book shall be produced on demand for inspection by the police or an authorised officer of the Council.

11. There shall be no more than 4 guests per member on the premises at any time save for guests of members:

a) taking a table meal ; or

b) attending a pre-booked and bona fide private function or event booked by a member no less than 24 hours in advance. A register of persons attending the event shall be kept at the premises and made available for immediate

inspection by police or an authorised officer of the Council;

12. Guests of members can only purchase alcohol whilst that member is present on the premises.
13. The number of persons accommodated at any one time (including staff) shall not exceed the following:

First Floor- 30 persons
Ground Floor – 30 persons
Basement – 30 persons
14. Loudspeakers shall not be located in the entrance lobby or outside the premises building.
15. Patrons permitted to temporarily leave and then re-enter the premises to smoke shall not be permitted to take drinks or glass containers with them.
16. The courtyard area shall cease to be used after 21:00 hours and there shall be no more than 5 persons present there at any one time.
17. A Challenge 21 proof of age scheme shall be operated at the premises where the only acceptable forms of identification are recognised photographic identification cards, such as a driving licence, passport or proof of age card with the PASS Hologram.
18. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
19. Notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
20. The means of escape provided for the premises shall be maintained unobstructed, free of trip hazards, be immediately available and clearly identified in accordance with the plans provided.
21. The variation of the Premises Licence (14/07347/LIPV) in relation to the ground floor bar server will have no effect until the Licensing Authority are satisfied that the works are completed in accordance with the appropriate provisions of the District Surveyor's Association – Technical Standards for Places of Entertainment and the reasonable requirements of Westminster Environmental Health Consultation Team, at which time this condition will be removed from the Licence.
22. (i) Alcohol may be sold or supplied:

- (a) On weekdays, other than Christmas Day, Good Friday or New Year's Eve, 10:00 to 23:00.
- (b) On Sundays, other than Christmas Day or New Year's Eve, 12:00 to 22:30.
- (c) On Good Friday, 12:00 to 22:30
- (d) On Christmas Day, 12:00 to 15:00 and 19:00 to 22:30.
- (e) On New Year's Eve except on a Sunday, 10:00 to 23:00.
- (f) On New Year's Eve on a Sunday, 12:00 to 22:30.
- (g) On New Year's Eve from the end of permitted hours on New Year's Eve to the start of permitted hours on the following day (or, if there are no permitted hours on the following day, midnight on 31st December).

Basement and Ground Floor

- (ii) Alcohol may be sold or supplied for one hour following the hours set out above (other than Christmas Day and New Year's Eve) and on Christmas day, between 15:00 and 19:00 to persons taking table meals in the premises in a part of the premises usually set apart for the service of such persons and for consumption by such a person in that part of the premises as an ancillary to his meal. For other purposes or in other parts of the premises the hours set out above shall continue to apply.

- (iii) (a). Alcohol may be sold or supplied until 01.00 in the morning following weekdays (other than Good Friday and Christmas Day), 00.30 a.m. in the morning following Sundays (other than Christmas Day) and 00.30 in the morning following Good Friday to persons taking table meals in the premises in a part of the premises usually set apart for the service of such persons and for consumption by that person in that part of the premises as an ancillary to his meal.

(b). That part of the premises must also be used for the provision of entertainment by persons present and performing to which the sale or supply of alcohol is also ancillary.

(c) The alcohol must be sold or supplied at a time before (i) the provision of entertainment by persons present and performing or (ii) the provision of substantial refreshment, has ended. For other purposes or in other parts of the premises the hours set out above shall continue to apply.

(d) This condition does not authorise any sale or supply to any person admitted to the premises either after midnight (23.00 on Sunday) or less than half an hour before the entertainment is due to end, except in accordance with condition number 22(ii) above.

NOTE - The above restrictions do not prohibit:

(a) during the first thirty minutes in the basement and ground floor and twenty minutes on the first floor after the above hours the consumption of the alcohol on the premises;

(b) during the first twenty minutes after the above hours, the taking of

the alcohol from the premises unless the alcohol is supplied or taken in an open vessel;

(c) during the first thirty minutes after the above hours the consumption of the alcohol on the premises by persons taking table meals there if the alcohol was supplied for consumption as ancillary to the meals;

(d) the sale or supply of alcohol to or the consumption of alcohol by any person residing in the licensed premises;

(e) the ordering of alcohol to be consumed off the premises, or the despatch by the vendor of the alcohol so ordered;

(f) the sale of alcohol to a trader or registered club for the purposes of the trade or club;

(g) the sale or supply of alcohol to any canteen or mess, being a canteen in which the sale or supply of alcohol is carried out under the authority of the Secretary of State or an authorised mess of members of Her Majesty's naval, military or air forces;

(h) the taking of alcohol from the premises by a person residing there;

(i) the supply of alcohol for consumption on the premises to any private friends of a person residing there who are bona fide entertained by him at his own expense, or the consumption of alcohol by persons so supplied;

(j) the supply of alcohol for consumption on the premises to persons employed there for the purposes of the business carried on by the holder of the licence, or the consumption of liquor so supplied, if the liquor is supplied at the expense of their employer or of the person carrying on or in charge of the business on the premises.

In this condition, any reference to a person residing in the premises shall be construed as including a person not residing there but carrying on or in charge of the business on the premises.

23. No person under fourteen shall be in the bar of the licensed premises during the permitted hours unless one of the following applies:

- (a) He is the child of the holder of the premises licence.
- (b) He resides in the premises, but is not employed there.
- (c) He is in the bar solely for the purpose of passing to or from some part of the premises which is not a bar and to or from which there is no other convenient means of access or egress.
- (d) The bar is in railway refreshment rooms or other premises constructed, fitted and intended to be used bona fide for any purpose to which the holding of the licence is ancillary.

In this condition "bar" includes any place exclusively or mainly used for the

consumption of intoxicating liquor. But an area is not a bar when it is usual for it to be, and it is, set apart for the service of table meals and alcohol is only sold or supplied to persons as an ancillary to their table meals.

24. The terminal hour for late night refreshment on New Year's Eve is extended to 05:00 on New Year's Day.

4 CO-OPERATIVE FOOD, 18-22 PARK ROAD, NW1

LICENSING SUB-COMMITTEE No. 1

Thursday 30 October 2014

Membership: Councillor Tim Mitchell (Chairman) and Councillor Rita Begum

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Jonathan Deacon

Relevant Representations: Environmental Health, 1 x Resident Association and 6 x Residents (2 supporting the application).

Present: Mr Richard Arnot (Solicitor, representing the Applicant), Mr Adnan Naqvi (Operations Manager), Mr David Hurren (Transport Consultant) Mr Ian Watson (Environmental Health), Mr Richard Brown (Solicitor, Citizens Advice Bureau Licensing Advice Project – on behalf of Mrs Jane El-Khazen and Mrs Gabby Jeffries), Ms Roya Mahboubian and Mr Simon Davidson (local residents).

Co-operative Food, 18-22 Park Road, NW1 14/07378/LIPV	
1.	To remove the following condition 26 from the licence:
	All deliveries and collections to take place at the rear of the property marked 'x' on the plan.
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): Members of the Sub-Committee were aware that an application by Co-operative Food to permit off-sales of alcohol at 18-22 Park Road was granted by the Sub-Committee in July 2014. One particular aspect of that application, that deliveries and collections could only take place at the rear servicing area, had caused concerns.

The Applicant's concerns as set out by Mr Arnot at the hearing were that there was restricted access for deliveries to the rear servicing area in Sussex Place. This meant that the number of deliveries increased as the Applicant Company was required to use smaller vehicles. Mr Arnot stressed that his client's preference was to use larger delivery vehicles accessing the front loading bay on the A41 (Park Road) resulting in fewer deliveries. It was his view that the fact that the A41 was already very busy would mean there would be less disturbance than the use of Sussex Place South, a private road. However, it was appreciated that local residents in Park Road had concerns regarding deliveries to the front. It was therefore proposed that there were deliveries to both the rear and the front. The Applicant had commissioned a report by BWB Consulting which had made a number of recommendations. These included the size of the vehicle to the rear servicing area being restricted to a 7.5 tonne box van and deliveries to the front taking place between 10:00 and 16:00 and loading at the front being restricted to a maximum of twenty minutes. The Applicant had discussed with Mr Brown prior to the hearing use of the front loading bay from 10:00 to 19:00. Mr Arnot's position was that in theory it is wrong to condition deliveries where alcohol is not involved. Mr Arnot made the point that his client was trying to find a way to cause least disturbance and it would be very difficult to keep everyone happy. In response to Members' questions he clarified that refuse was collected from inside the store and there was no need for it to be picked up from an external area which might impact on residents.

The Sub-Committee noted that Environmental Health's position as stated by Mr Watson was that the Applicant's proposals, including the removal of condition 26 on the existing licence and the amendment to conditions 28 and 30 added up to the best compromise option available. Residents of Park Road had expressed concerns at the original hearing regarding deliveries at the front, including the timings. The Applicant was now proposing to reduce the number and the timings of the deliveries at the front.

The Sub-Committee heard the concerns of Ms Mahboubian and Mr Davidson, residents of Clarence Terrace. They had not made a representation at the original hearing but had particularly objected to the decision to divert deliveries from Park Road to Sussex Place South which Ms Mahboubian referred to as 'a gated, residential and highly regulated conservation area of Regent's Park'. The quiet and residential private road contrasted with the busier A41. Sussex Place South was outside local residents' windows in Clarence Terrace. Sussex Place South was managed and monitored by the Crown Estate Paving Commission. The strict regulations of the CEPC included that commercial buildings can normally only service buildings between 08:00 and 17:00. Ms Mahboubian emphasised how difficult it was to access Sussex Place South that if there were a lot of vehicles there then people parked on double yellow lines. It was not an area that catered for commercial use. Mr Davidson commented that there was a designated lorry delivery bay on Park Road which was right in front of 18-22 Park Road

Mr Brown represented Mrs El-Khazen and Mrs Jeffries, residents in Park Road who had attended the hearing in July. Mr Brown explained at the hearing that Mrs El-Khazen and Mrs Jeffries were of the view that there was the potential for public nuisance to be caused whether deliveries took place to the rear servicing

area in Sussex Place or the front loading bay on the A41. He commented that it had been a serious defect in the application that the logistics to the rear did not allow larger sized lorries. Mr Brown added that there were sections within the report by BWB Consulting that would reduce concerns such as the reduction of the proposed number of trucks to the front than was envisaged originally and the suggestion that any deliveries were made between 10:00 and 16:00 hours. It was the hours and the frequency which were liable to cause public nuisance. He suggested up to three box van deliveries to the back and requested that lorries waiting at the front and rear should not leave their engines running whilst waiting or making deliveries.

The Sub-Committee explored the options for the deliveries with Mr Arnot and the Applicant Company representatives. Mr Arnot stated that if only box vans to the rear were permitted, the Applicant would need to undertake approximately nine deliveries a day. If deliveries were permitted to the rear and front, nine deliveries by the box vans could be reduced to four, three to the rear and one to the front. He added that if the Sub-Committee was minded to permit deliveries to the front, his client was willing to amend delivery times to 10:00 to 16:00 hours.

The Sub-Committee, without prejudice to the planning position, granted the application for the deletion of condition 26 and amended conditions 28 and 30. Members considered that the report by BWB Consulting setting out servicing proposals had been helpful. The Applicant's investigation of the options for deliveries had been lacking at the original hearing which was often a problem for supermarkets intending to operate new premises in Central London. The Sub-Committee adopted some of the proposals included in the BWB Consulting report, including that there would be one main delivery at the front. The Sub-Committee also attached a condition to the licence that was in keeping with Mr Arnot's suggestion that there would be one bakery delivery made per day to the loading bay on the A41 (Park Road) adjacent to the store situated at 18-22 Park Road, using a box van or similar vehicle. These deliveries to the front, as also suggested in the BWB Consulting report, would be restricted between 10:00 and 16:00 hours. There would be up to three other deliveries to the rear in box vans for the hours set out on the existing licence 08:00 to 23:00. Only in a situation where the rear servicing area could not be accessed could there be an additional delivery to the front. The Applicant when making deliveries would have to meet the requirements of the GLA who oversee the red route and the Crown Estate Paving Commission responsible for Sussex Place South.

2. To amend conditions 28 and 30 as follows:

Condition 28:

All refuse to be collected inside the premises and to be picked up from the area marked 'x' on the plan.

To be Amended To:

All refuse to be collected inside the premises.

	<p><u>Condition 30:</u></p> <p>Delivery vehicles will not be permitted to leave their engines running whilst waiting to enter the delivery area.</p> <p><u>To be Amended To:</u></p> <p>Delivery vehicles will not be permitted to leave their engines running whilst making deliveries.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>The Sub-Committee amended conditions 28 and 30 as follows:</p> <ul style="list-style-type: none"> • Condition 28 (31 below) was amended to ‘all refuse to be collected from inside the premises’. • Condition 30 (33 below) was amended to ‘delivery vehicles will not be permitted to leave their engines running whilst waiting or making deliveries’.

Conditions attached to the Licence	
<u>Mandatory Conditions</u>	
1.	No supply of alcohol may be made at a time when there is no designated premises supervisor in respect of this licence.
2.	No supply of alcohol may be made at a time when the designated premises supervisor does not hold a personal licence or the personal licence is suspended.
3.	Every supply of alcohol under this licence must be made or authorised by a person who hold a personal licence.
4.	<p>(1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.</p> <p>(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.</p>
5.	(i) A relevant person shall ensure that no alcohol is sold or supplied for

consumption on or off the premises for a price which is less than the permitted price.

- (ii) For the purposes of the condition set out in paragraph 5(i) above -
- (a) “duty” is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;
- (b) “permitted price” is the price found by applying the formula -
- $$P = D + (D \times V)$$
- Where -
- (i) P is the permitted price,
- (ii) D is the amount of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and
- (iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;
- (c) “relevant person” means, in relation to premises in respect of which there is in force a premises licence -
- (i) the holder of the premises licence,
- (ii) the designated premises supervisor (if any) in respect of such a licence, or
- (iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;
- (d) “relevant person” means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and
- (e) “value added tax” means value added tax charged in accordance with the Value Added Tax Act 1994.
- (iii) Where the permitted price given by Paragraph 5(ii)(b) above would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.
- (iv) (1) Sub-paragraph 5(iv)(2) below applies where the permitted price given by Paragraph 5(ii)(b) above on a day (“the first day”) would be different from the permitted price on the next day (“the second day”) as a result of a change to the rate of duty or value added tax.
- (2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of

the period of 14 days beginning on the second day.

Additional Conditions

6. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 28 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 28 day period.
7. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
8. All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.
9. The licence holder shall ensure that outside of the hours authorised for the sale of alcohol and whilst the premises are open to the public, all alcohol within the trading area is to be secured behind locked grills, locked screens or locked cabinet doors so as to prevent access to the alcohol by both customers and staff.
10. No super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises.
11. No single cans or bottles of beer or cider or spirit mixtures shall be sold at the premises.
12. No more than (15) % of the sales area shall be used at any one time for the sale, exposure for sale, or display of alcohol.
13. There shall be no self service of spirits on the premises, save for spirit mixtures less than 5.5% ABV.
14. Prominent signage indicating the permitted hours for the sale of alcohol shall be displayed so as to be visible before entering the premises, where alcohol is on public display, and at the point of sale.
15. Prior to any football match taking place at Wembley Stadium the premises licence holder shall ensure that;
 - (i) Alcohol sales in respect of cans of beer or cider are limited to no more than 4 cans per person for a minimum of four hours before the commencement of the relevant designated sporting event;

- (ii) No sales of alcohol in bottles or glass containers are made in the period four hours before the commencement of the designated sporting event
- (iii) On any day where there is a relevant designated sporting event taking place, the premises will not externally advertise as a result of a local store promotion the availability of beer or cider in such a way as to be likely to be the sole inducement to attract persons to the premises who are either attending the designated sporting event or in the vicinity of the premises as a result of the designated sporting event;
- (iv) All members of staff working at the premises are informed of this condition prior to taking up employment;
- (v) On the day of the relevant designated sporting event, upon the direction of a police officer of the rank of Inspector or above, using the grounds of the prevention of crime and disorder or public safety, the premises will immediately cease to sell alcohol until further directed by the police or until the relevant designated sporting event has finished.

16. There shall be "CCTV in Operation" signs prominently displayed at the premises.

17. An incident log (whether kept in a written or electronic form) shall be retained at the premises and made available to an authorised Officer of the Police or the Local Authority.

18. The premises shall operate a proof of age scheme, such as a Challenge 25, whereby the only forms of acceptable identification shall be either a photographic driving licence, a valid passport, military identification or any other recognised form of photographic identification incorporating the PASS logo, or any other form of identification from time to time approved by the secretary of the state.

19. The premises will be fitted with a burglar alarm system.

20. The premises will be fitted with a panic button system for staff to utilise in the case of an emergency.

21. The premises licence holder shall ensure that the appropriate fire safety, and health and safety regulations are applied at the premises.

22. A complaints procedure will be maintained, details of which will be made available in store and upon request.

23. A refusals register (whether kept and written or electronic form) will be maintained at the premises and will be made available for inspection upon request by an authorised Officer of the Police or the Local Authority.

24. All relevant staff will receive training in their responsibilities under the Licensing Act 2003 and Challenge 25 (or any similar scheme). Refresher training will be given twice a year and training records made available to the Police or an authorised officer of the Licensing Authority.

25. Tills will be installed at the premises which prompt staff to request age

verification from customers who appear to be under the age of 25 (or any other age should Challenge 25 be replaced by a similar scheme).

26. One large and consolidated ambient, chilled and frozen goods delivery can be made per day to the loading bay on the A41 (Park Road) adjacent to the store situated at 18-22 Park Road.
27. One bakery delivery can be made per day to the loading bay on the A41 (Park Road) adjacent to the store situated at 18-22 Park Road, using a box van or similar vehicle, not exceeding [7.5 tonnes] in weight.
28. Up to three other deliveries can be made per day to the semi-covered rear servicing area in Sussex Place provided for the use of the store situated at 18-22 Park Road, each delivery to be made by a box van or similar vehicle, not exceeding [7.5 tonnes] in weight. Any of these deliveries can instead be made to the loading bay on the A41 (Park Road) adjacent to the store situated at 18-22 Park Road but only when it is not possible to gain access to the rear servicing area in Sussex Place.
29. All deliveries made to the loading bay on the A41 (Park Road) will be made between 10 am and 4 pm and will abide by the restrictions upon the use of the bay, including all restrictions on the waiting and loading times.
30. All deliveries to the semi-covered rear servicing area in Sussex Place will be made between 08:00 and 23:00 but may be subject to such further restrictions on access to Sussex Place as may be imposed by the owners or managers of Sussex Place.
31. All refuse to be collected from inside the premises.
32. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
33. Delivery vehicles will not be permitted to leave their engines running whilst waiting or making deliveries.
34. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.

5 BASEMENT AND GROUND FLOOR, 39 GREAT WINDMILL STREET, W1

LICENSING SUB-COMMITTEE No. 1

Thursday 30 October 2014

Membership: Councillor Tim Mitchell (Chairman) and Councillor Rita Begum

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Jonathan Deacon

Relevant Representations: Environmental Health and 1 x Resident.

Present: Mr Maurice St Aubyn (Applicant) and Mr Ian Watson (Environmental Health)

Basement And Ground Floor, 39 Great Windmill Street, W1 14/07220/LIPN	
1.	Late Night Refreshment:
	Monday to Saturday – 23:00 to 01:00 Sunday – 23:00 to 00:00.
	Amendments to application advised at hearing: None.
	Decision (including reasons if different from those set out in report): Granted, subject to conditions as set out below. Members of the Sub-Committee noted that the application was contrary to the Council's policy in the West End Stress Area. This was due to the fact that the Applicant, Mr St Aubyn, wished to establish a fast food premises at 39 Great Windmill Street with operating hours beyond 11 pm. Takeaway would be the main element of the business with hot food and hot drink also being provided on the premises. The Sub-Committee however, granted the application as an exception to policy on the basis that the hours applied for by Mr St Aubyn at Great Windmill Street were identical to those on the premises licence for 4 Brewer Street which had also operated as a fast food premises. As the Brewer Street area is being redeveloped and Wok to Walk at 4 Brewer Street is currently closed, the Applicant who was in the process of having the Brewer Street premises licence being transferred to him, wished to operate from 39 Great Windmill Street for approximately three years until the works are completed and then return to the premises at 4 Brewer Street. The Sub-Committee stipulated in the conditions attached to the licence that no licensable activities would be permitted to take place at 39 Great Windmill Street in the event that licensable activities were carried on at 4 Brewer Street. Members, in reaching their decision, took into account that the conditions that the Applicant agreed with Environmental Health promoted the licensing objectives. Mr Watson for Environmental Health advised the Sub-Committee that the Great Windmill Street establishment was smaller than the Brewer Street

	<p>one and that Mr St Aubyn had agreed a maximum of capacity of ten on the premises. Members noted that this was five fewer than the Brewer Street premises, which was also in the West End Stress Area and it was therefore potentially reducing cumulative impact in the Stress Area. The Sub-Committee's concerns regarding the potential for disturbance in the event of people congregating around the fast food premises was eased by the fact that Mr St Aubyn had agreed Mr Watson's proposed condition that a SIA licensed door supervisor would be on duty at the premises from 21:00 until the respective closing times of 01:00 Monday to Saturday and midnight on Sunday. In order to prevent the potential for public nuisance, Mr Watson had proposed that any amplified music was turned off after 22:00 which was an hour earlier than at 4 Brewer Street and this was also agreed by the Applicant. An additional Council model condition was attached to the licence that no noise would be permitted to emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.</p> <p>Mr St Aubyn had not agreed the Environmental Health proposed conditions that there would be no takeaway of hot food or hot drink after 23:00 hours, that the food would only be consumed inside the premises and that a waiter or waitress service would be provided. Members decided not to attach these conditions on the basis that they were satisfied that the application was a genuine exception to policy, with the establishment acting as a temporary replacement for the premises at Brewer Street. Members noted too that the Applicant was not seeking to sell alcohol at the premises.</p>
2.	Opening Hours
	<p>Monday to Saturday – 11:00 to 01:00 Sunday – 11:00 to 00:00.</p>
	<p>Amendments to application advised at hearing:</p> <p>None.</p>
	<p>Decision (including reasons if different from those set out in report):</p> <p>Granted, subject to conditions as set out below.</p>

Conditions attached to the Licence	
1.	No amplified music shall be played within the premises after 22:00.
2.	All refuse must be paid, properly presented, and can only be placed on street 30 minutes before the scheduled collection time.
3.	All licensable activities shall be restricted to the ground floor of the premises.

4. All external doors shall be kept closed whenever the premises are used for the consumption of food after 23.00 hours, except for the immediate access and egress of persons.
5. The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of the Westminster Police Licensing Team. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Viewing of recordings shall be made available immediately upon the request of Police or authorised officer throughout the preceding 31 day period.
6. A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises is open. This staff member must be able to provide a Police or authorised council officer copies of recent CCTV images or data with the absolute minimum of delay when requested.
7. An incident log shall be kept at the premises, and made available on request to an authorised officer of the City Council or the Police, which will record the following:
 - (a) all crimes reported to the venue
 - (b) all ejections of patrons
 - (c) any complaints received concerning crime and disorder
 - (d) any incidents of disorder
 - (e) any faults in the CCTV system or searching equipment or scanning equipment
 - (f) any visit by a relevant authority or emergency service.
8. The maximum number of customers that may be inside the premises at any one time shall not exceed 10 persons.
9. No noise shall emanate from the premises nor vibration be transmitted through the structure of the premises which gives rise to a nuisance.
10. Notices shall be prominently displayed at exits requesting patrons to respect the needs of local residents and businesses and leave the area quietly.
11. All waste shall be properly presented and placed out for collection no earlier than 30 minutes before the scheduled collection times.
12. During the hours of operation of the premises, the licence holder shall ensure sufficient measures are in place to remove and prevent litter or waste arising or accumulating from customers in the area immediately outside the premises, and that this area shall be swept and or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.

13. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between 23.00 hours and 08.00 hours on the following day.
14. A minimum of 1 SIA licensed door supervisor shall be on duty at the premises from 21:00 until 01:00 Monday to Saturday and 21:00 until midnight on Sunday.
15. No licensable activities shall be carried on pursuant to this licence on any day when licensable activities are carried on during any part of that day at the premises situated at Ground Floor, 4 Brewer Street, London, W1F 0SB.

6 INITIAL CONSIDERATION FOR ANY INTERIM MEASURES PENDING FULL REVIEW - MADAME JOJO'S, 8-10 BREWER STREET, W1

LICENSING SUB-COMMITTEE No. 1

Thursday 30 October 2014

Membership: Councillor Tim Mitchell (Chairman) and Councillor Rita Begum

Legal Adviser: Barry Panto

Policy Adviser: Chris Wroe

Committee Officer: Jonathan Deacon

Relevant Representations: Metropolitan Police (Applicant)

Present: Ms Saima Hanif (Counsel, representing the Applicant), Sergeant Frank Partridge, PC Jim Sollars and PC Reaz Guerra (Metropolitan Police), Mr Philip Kolvin QC (representing the Licensee), Mr Paajoe Gaskin (Manager and Proposed DPS) and Mr Khalil Ibrahim (TSS Security).

Declaration: Councillor Tim Mitchell advised during the meeting that he is a Director of Safer West End in response to the Licence Holder's proposed interim steps.

Initial consideration for any interim measures pending the full review of the premises licence for:

**Madame JoJo's, 8-10 Brewer Street, W1
14/09263/LIREVX**

An application had been made by the Metropolitan Police Service to review the premises licence for Madame JoJo's under Section 53A(1)(b) of the Licensing Act 2003 (premises associated with serious crime or disorder).

The Committee after considering the report and the evidence presented at the hearing may take such interim steps as it considers necessary for the promotion of the licensing objectives. These steps are:

- (a) modification of the conditions of the premises licence (modify, delete or add conditions);
- (b) to exclude the sale by retail of alcohol from the scope of the licence;
- (c) to remove the designated premises supervisor;
- (d) to suspend the licence;

Decision (including reasons):

The Sub-Committee initially heard from Ms Hanif. She stated that there had been a grievous assault perpetrated by employees from Madame JoJo's and Escape Nightclub on Friday 24 October 2014 at approximately 00:35 hours. There had been a series of failings which showed a complete disregard for the licensing objectives. A number of interim steps had been proposed by the Licence Holder. It was the view of the Applicant that these steps were inadequate and did not address all of the Police's concerns. A number of the steps were measures that management of premises would be expected to follow in any event.

Sergeant Partridge and PC Guerra took Members through the CCTV footage of the incident. This included the incidents recorded on CCTV outside Madame JoJo's and also CCTV from inside the venue directed towards the street. The footage from the external camera included the discussion between a member of security from Escape and a black male escalating to the point where the male is head-butted and then pinned against the wall by the security manager of Madame JoJo's only to be punched a number of times by a man the Police believed to be Madame JoJo's taxi operator. When the black male returned with a group of males seen throwing glass bottles towards Madame JoJo's door, the indoor camera showed security staff producing baseball bats wrapped in bin liners. The black male was attacked again by security staff, including with a baseball bat by the man believed to be the taxi operator. The Police were of the view that the footage clearly demonstrated that the security manager had authorised the use of the baseball bats. Ms Hanif commented that the man described as the taxi operator clearly knew where the baseball bats were kept and was shown to have a close association with staff at the premises. One man had been injured by a glass bottle thrown by the group of males and there had been no first aid box at the premises to treat his injury. This had had to be obtained from another premises and a customer had cleaned up the injured man. Ms Hanif added that the manager on duty, Mr Zorick, had signed off a checklist which stated that adequate first aid cover was provided at all times. This she stated had been shown not to be the case in the CCTV footage and the checklist was typical of procedures not being followed. When PC Sollars had visited the premises it had been found that a checklist for 24 October had been filled out prior to the premises opening.

The Police had also had particular concerns that they had not been called initially when the incident arose and noted that the night manager on duty appeared to have been totally apathetic about the serious assault that was taking place. He did eventually call the police but not until 12.40 am, over 1 hour after the initial assault

occurred. The Police were also concerned that the DPS had not initially reported a death threat received by her father that weekend from three individuals threatening him if the premises re-opened.

Mr Kolvin stated that he did not dispute the Police interpretation of the CCTV although he did make the point that the man Police believed to be the taxi operator was not a member of staff of Madame JoJo's or Escape. His client, Ms Louise Tkaczyk the DPS, was appalled by the incidents and did not condone any of the events, including the use of baseball bats. She had run Madame JoJo's for 13 years and Escape for 8 years and nothing like this had happened before. Ms Tkaczyk had not been well for much of 2014 and had installed Mr Paajoe Gaskin, Mr Steven Tkaczyk, the DPS' father and Mr Bojan Zorick as managers. Mr Kolvin did not believe that there were any Police concerns regarding Mr Gaskin and Mr Tkaczyk. There had been no indication that the manager on duty on the night in question, Mr Zorick, could have overseen such incidents without responding. Mr Kolvin advised Members that Ms Tkaczyk had worked hard to turn Madame JoJo's into an event centred venue and had restored Escape to its former glory. Neither premises attracted trouble makers and were not 'on the radar' for the Police as causing serious crime and disorder. The premises management had shut both venues voluntarily at the request of the Police and had co-operated with the Police in terms of evidence gathering, including providing the CCTV footage.

Mr Kolvin addressed the Sub-Committee on his client's proposed action plan containing interim steps to be undertaken prior to the full review hearing. Firstly it was proposed that Mr Zorick, the manager on duty, should no longer be employed at the premises on the basis that he had not acted in response to the incidents. Secondly, it was proposed that the door team were removed and thirdly that they would be replaced by TSS Security, an experienced company which operated a number of premises in the West End including Shadow Lounge, Village and The Box. Fourthly it would be formalised that there would be two door supervisors at each venue during operating hours together with one further door supervisor from 22:00 hours on any night the venues were operating. Fifthly, it was suggested that door staff wear body cams provided by TSS which could record conversation such as the original incident between the member of security and the black male. Step six was that any assault should be reported to the Police immediately. Step seven was that both Madame JoJo's and Escape Nightclub would be members of and participate in the Safer West End project. Step eight was that all managers would have training from Abacus Training in the legitimate use of force, crime scene preservation, conflict management and incident report writing. Step nine was that Ms Tkaczyk would step down, having accepted that the role requires someone who is able to work full time at the premises. It was proposed that she would be replaced by Mr Gaskin as DPS, subject to dialogue with the Police. Step ten was that the DPS should work full time at the venues. Step eleven was that there would be a named, responsible person in charge when the DPS cannot be there. Step twelve involved the premises re-opening only when all the interim steps were complied with to the satisfaction of the Police and the Licensing Authority. Finally Mr Kolvin stated that it had been the case that the taxi tout had been over-familiar with Mr Zorick and door staff and suggested that a dedicated taxi company was employed which could if necessary require the approval of the Police. Mr Kolvin added that in conclusion his client had removed the source of the misconduct and proposed steps to ensure that the incidents did not happen again. The suggested interim steps demonstrated that his client took the

matter seriously.

Ms Hanif and Mr Kolvin were given the opportunity to respond to comments that were made and sum up. Ms Hanif advised the Sub-Committee that Mr Tkaczyk was not fully trusted by the Police. An allegation had been made that he had claimed that he had deleted CCTV due to an incident at the club. Mr Gaskin responded via Mr Kolvin that he was the only person responsible for CCTV and he was not aware of the accusation. Mr Gaskin also replied in response to concerns that he had appeared to know the taxi operator/tout, that he recognised him but did not know him personally. Ms Hanif made the point that there had been a complete abdication of responsibility and there had been an attempt to purely focus this on the night manager. The proposed interim steps were not above and beyond those that would be expected of similar establishments. Mr Kolvin responded that a number of the steps did go beyond those expected of premises such as the use of body cams and his client had reacted swiftly to events such as promptly dismissing the door staff. The suggestion that all staff had been tarred by the activities of the door staff when the premises had had few issues previously with crime and disorder was unfair.

The Sub-Committee, having carefully considered all the evidence, decided it was necessary to suspend the premises licences for Madame JoJo's and Escape Nightclub pending the full review. Members had noted that serious assaults with injury had taken place in the early hours of 24 October. The DPS, Ms Tkaczyk, had not been present at the premises on that evening and had indeed not been present at the premises for some time. She had put in place alternative arrangements for management supervision. On the evening concerned it had appeared to the Sub-Committee from the CCTV evidence that those connected with the premises were prepared for trouble. Baseball bats had been kept on an overhead shelf and when the incidents took place it appeared to be an organised assault on the black male concerned. The Police were not called initially and it was not clear whether they would have been had an innocent individual not been injured. There had been grossly inadequate first aid available to the individual from Madame JoJo's and appropriate first aid had to be sought from an adjacent premises. The Sub-Committee did not consider that the premises had been well managed on this occasion and concluded that the DPS was required to take some responsibility for this. There was an ongoing Police investigation into the events of the early hours of 24 October. There would be a full review of the premises licence which would give the Police the opportunity to update Members with their findings and other parties within the community to respond to the review. The Sub-Committee considered that the period of closure whilst the two premises were suspended pending the full review would be suitable for management to implement the steps in the action plan.

7 INITIAL CONSIDERATION FOR ANY INTERIM MEASURES PENDING FULL REVIEW - ESCAPE NIGHTCLUB, 10A BREWER STREET, W1

LICENSING SUB-COMMITTEE No. 1

Thursday 30 October 2014

Membership: Councillor Tim Mitchell (Chairman) and Councillor Rita Begum

Legal Adviser: Barry Panto
Policy Adviser: Chris Wroe
Committee Officer: Jonathan Deacon

Relevant Representations: Metropolitan Police (Applicant)

Present: Ms Saima Hanif (Counsel, representing the Applicant), Sergeant Frank Partridge, PC Jim Sollars and PC Reaz Guerra (Metropolitan Police), Mr Philip Kolvin QC (representing the Licensee), Mr Paajoe Gaskin (Manager and Proposed DPS) and Mr Khalil Ibrahim (TSS Security).

Declaration: Councillor Tim Mitchell advised during the meeting that he is a Director of Safer West End in response to the Licence Holder's proposed interim steps.

**Initial consideration for any interim measures pending the full review of the premises licence for:
Escape Nightclub, 10A Brewer Street, W1
14/09252/LIREVX**

An application had been made by the Metropolitan Police Service to review the premises licence for Escape Nightclub under Section 53A(1)(b) of the Licensing Act 2003 (premises associated with serious crime or disorder).

The Committee after considering the report and the evidence presented at the hearing may take such interim steps as it considers necessary for the promotion of the licensing objectives. These steps are:

- (a) modification of the conditions of the premises licence (modify, delete or add conditions);
- (b) to exclude the sale by retail of alcohol from the scope of the licence;
- (c) to remove the designated premises supervisor;
- (d) to suspend the licence;

Decision (including reasons):

The Sub-Committee initially heard from Ms Hanif. She stated that there had been a grievous assault perpetrated by employees from Madame JoJo's and Escape Nightclub on the Friday 24 October 2014 at approximately 00:35 hours. There had been a series of failings which showed a complete disregard for the licensing objectives. A number of interim steps had been proposed by the Licence Holder. It was the view of the Applicant that these steps were inadequate and did not address all of the Police's concerns. A number of the steps were measures that management of premises would be expected to follow in any event.

Sergeant Partridge and PC Guerra took Members through the CCTV footage of the

incident. This included the incidents recorded on CCTV outside Madame JoJo's and also CCTV from inside the venue directed towards the street. The footage from the external camera included the discussion between a member of security from Escape and a black male escalating to the point where the male is head-butted and then pinned against the wall by the security manager of Madame JoJo's only to be punched a number of times by a man the Police believed to be Madame JoJo's taxi operator. When the black male returned with a group of males seen throwing glass bottles towards Madame JoJo's door, the indoor camera showed security staff producing baseball bats wrapped in bin liners. The black male was attacked again by security staff, including with a baseball bat by the man believed to be the taxi operator. The Police were of the view that the footage clearly demonstrated that the security manager had authorised the use of the baseball bats. Ms Hanif commented that the man described as the taxi operator clearly knew where the baseball bats were kept and was shown to have a close association with staff at the premises. One man had been injured by a glass bottle thrown by the group of males and there had been no first aid box at the premises to treat his injury. This had had to be obtained from another premises and a customer had cleaned up the injured man. Ms Hanif added that the manager on duty, Mr Zorick, had signed off a checklist which stated that adequate first aid cover was provided at all times. This she stated had been shown not to be the case in the CCTV footage and the checklist was typical of procedures not being followed. When PC Sollars had visited the premises it had been found that a checklist for 24 October had been filled out prior to the premises opening.

The Police had also had particular concerns that they had not been called initially when the incident arose and noted that the night manager on duty appeared to have been totally apathetic about the serious assault that was taking place. He did eventually call the police but not until 12.40 am, over 1 hour after the initial assault occurred. The Police were also concerned that the DPS had not initially reported a death threat received by her father that weekend from three individuals threatening him if the premises re-opened.

Mr Kolvin stated that he did not dispute the Police interpretation of the CCTV although he did make the point that the man Police believed to be the taxi operator was not a member of staff of Madame JoJo's or Escape. His client, Ms Louise Tkaczyk the DPS, was appalled by the incidents and did not condone any of the events, including the use of baseball bats. She had run Madame JoJo's for 13 years and Escape for 8 years and nothing like this had happened before. Ms Tkaczyk had not been well for much of 2014 and had installed Mr Paajoe Gaskin, Mr Steven Tkaczyk, the DPS' father and Mr Bojan Zorick as managers. Mr Kolvin did not believe that there were any Police concerns regarding Mr Gaskin and Mr Tkaczyk. There had been no indication that the manager on duty on the night in question, Mr Zorick, could have overseen such incidents without responding. Mr Kolvin advised Members that Ms Tkaczyk had worked hard to turn Madame JoJo's into an event centred venue and had restored Escape to its former glory. Neither premises attracted trouble makers and were not 'on the radar' for the Police as causing serious crime and disorder. The premises management had shut both venues voluntarily at the request of the Police and had co-operated with the Police in terms of evidence gathering, including providing the CCTV footage.

Mr Kolvin addressed the Sub-Committee on his client's proposed action plan

containing interim steps to be undertaken prior to the full review hearing. Firstly it was proposed that Mr Zorick, the manager on duty, should no longer be employed at the premises on the basis that he had not acted in response to the incidents. Secondly, it was proposed that the door team were removed and thirdly that they would be replaced by TSS Security, an experienced company which operated a number of premises in the West End including Shadow Lounge, Village and The Box. Fourthly it would be formalised that there would be two door supervisors at each venue during operating hours together with one further door supervisor from 22:00 hours on any night the venues were operating. Fifthly, it was suggested that door staff wear body cams provided by TSS which could record conversation such as the original incident between the member of security and the black male. Step six was that any assault should be reported to the Police immediately. Step seven was that both Madame JoJo's and Escape Nightclub would be members of and participate in the Safer West End project. Step eight was that all managers would have training from Abacus Training in the legitimate use of force, crime scene preservation, conflict management and incident report writing. Step nine was that Ms Tkaczyk would step down, having accepted that the role requires someone who is able to work full time at the premises. It was proposed that she would be replaced by Mr Gaskin as DPS, subject to dialogue with the Police. Step ten was that the DPS should work full time at the venues. Step eleven was that there would be a named, responsible person in charge when the DPS cannot be there. Step twelve involved the premises re-opening only when all the interim steps were complied with to the satisfaction of the Police and the Licensing Authority. Finally Mr Kolvin stated that it had been the case that the taxi tout had been over-familiar with Mr Zorick and door staff and suggested that a dedicated taxi company was employed which could if necessary require the approval of the Police. Mr Kolvin added that in conclusion his client had removed the source of the misconduct and proposed steps to ensure that the incidents did not happen again. The suggested interim steps demonstrated that his client took the matter seriously.

Ms Hanif and Mr Kolvin were given the opportunity to respond to comments that were made and sum up. Ms Hanif advised the Sub-Committee that Mr Tkaczyk was not fully trusted by the Police. An allegation had been made that he had claimed that he had deleted CCTV due to an incident at the club. Mr Gaskin responded via Mr Kolvin that he was the only person responsible for CCTV and he was not aware of the accusation. Mr Gaskin also replied in response to concerns that he had appeared to know the taxi operator/tout, that he recognised him but did not know him personally. Ms Hanif made the point that there had been a complete abdication of responsibility and there had been an attempt to purely focus this on the night manager. The proposed interim steps were not above and beyond those that would be expected of similar establishments. Mr Kolvin responded that a number of the steps did go beyond those expected of premises such as the use of body cams and his client had reacted swiftly to events such as promptly dismissing the door staff. The suggestion that all staff had been tarred by the activities of the door staff when the premises had had few issues previously with crime and disorder was unfair.

The Sub-Committee, having carefully considered all the evidence, decided it was necessary to suspend the premises licences for Madame JoJo's and Escape Nightclub pending the full review. Members had noted that serious assaults with injury had taken place in the early hours of 24 October. The DPS, Ms Tkaczyk, had not been present at the premises on that evening and had indeed not been present

at the premises for some time. She had put in place alternative arrangements for management supervision. On the evening concerned it had appeared to the Sub-Committee from the CCTV evidence that those connected with the premises were prepared for trouble. Baseball bats had been kept on an overhead shelf and when the incidents took place it appeared to be an organised assault on the black male concerned. The Police were not called initially and it was not clear whether they would have been had an innocent individual not been injured. There had been grossly inadequate first aid available to the individual from Madame JoJo's and appropriate first aid had to be sought from an adjacent premises. The Sub-Committee did not consider that the premises had been well managed on this occasion and concluded that the DPS was required to take some responsibility for this. There was an ongoing Police investigation into the events of the early hours of 24 October. There would be a full review of the premises licence which would give the Police the opportunity to update Members with their findings and other parties within the community to respond to the review. The Sub-Committee considered that the period of closure whilst the two premises were suspended pending the full review would be suitable for management to implement the steps in the action plan.